

To: Stern, Allyn[Stern.Allyn@epa.gov]; Ebright, Stephanie[EBRIGHT.STEPHANIE@EPA.GOV]
Cc: Cora, Lori[Cora.Lori@epa.gov]
From: Mackey, Cyndy
Sent: Tue 1/19/2016 3:04:36 PM
Subject: RE: Portland Harbor Superfund Site--Request to Resolve Issues re Jan 4 Letter

Allyn

I left a message with someone at her office advising them that Jessica Hamilton with the Port has set up a call with the region about Portland Harbor at 9 am PST today and that she might want to coordinate with Jessica.

Cyndy Mackey

Director, Office of Site Remediation Enforcement

EPA-Office of Enforcement and Compliance Assurance (Mail Code-2271A)

1200 Pennsylvania Ave., N.W. (Room-WJC 5206) Washington, DC 20460

202 564-8206 (Direct Line)

202 564-5110 (Office Line)

202 591-6184(Office Cell)

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From: Stern, Allyn
Sent: Monday, January 18, 2016 11:52 PM
To: Ebright, Stephanie <EBRIGHT.STEPHANIE@EPA.GOV>
Cc: Mackey, Cyndy <Mackey.Cyndy@epa.gov>; Cora, Lori <Cora.Lori@epa.gov>
Subject: Re: Portland Harbor Superfund Site--Request to Resolve Issues re Jan 4 Letter

I am not sure whether they know about it but they probably don't know that we would like them

to attend. Lori - welcome back! You could call them in the morning. Cyndy - do you also want to call Marianne Horinko to let her know that we will all be talking on one call at 9:00 Pacific?

Allyn Stern

Regional Counsel

US EPA Region 10

1200 Sixth Avenue, Seattle, WA 98101

206-553-1223

On Jan 18, 2016, at 8:41 PM, Ebright, Stephanie <EBRIGHT.STEPHANIE@EPA.GOV> wrote:

Hi Allyn,

Do you know whether the LWG attorneys are aware of the call tomorrow at 9 or do we need to let them know? I just spoke to Lori and she is up to date. Lori, will be in at 8 tomorrow and can call the LWG attorneys to let them know of the call, if needed.

Thanks

Stephanie Ebright, Assistant Regional Counsel

U.S. Environmental Protection Agency, Region 10

1200 6th Avenue, Suite 900 (ORC-113)

Seattle, WA 98101

206.553.0774 (phone)

206.553.1762 (fax)

From: Stern, Allyn

Sent: Sunday, January 17, 2016 5:24 PM

To: Mackey, Cyndy <Mackey.Cyndy@epa.gov>; Ebright, Stephanie

<EBRIGHT.STEPHANIE@EPA.GOV>

Subject: Fwd: Portland Harbor Superfund Site--Request to Resolve Issues re Jan 4 Letter

Seems like we should participate in this. Can you tell whether the attorneys are included in the below email? Maybe call Marianne Horinko after? Or, you can call her back on Tuesday morning and let her know that we are having this call to discuss. I just don't want to say something different to her that we say to the rest of the group.

Allyn Stern

Regional Counsel

US EPA Region 10

1200 Sixth Avenue, Seattle, WA 98101

206-553-1223

Begin forwarded message:

From: "McLerran, Dennis" <mclerran.dennis@epa.gov>

Date: January 17, 2016 at 3:53:22 PM PST

To: "Hamilton, Jessica" <Jessica.Hamilton@portofportland.com>

Cc: "Grandinetti, Cami" <Grandinetti.Cami@epa.gov>, Tom Imeson
<tom.imeson@nwnatural.com>, "Robinhold, Curtis"

<Curtis.Robinhold@portofportland.com>, "Magorrian, Matthew"

<Magorrian.Matthew@epa.gov>, "Pirzadeh, Michelle"

<Pirzadeh.Michelle@epa.gov>, "Woolford, James" <Woolford.James@epa.gov>,

"Stern, Allyn" <Stern.Alyn@epa.gov>, "Mackey, Cyndy"

<Mackey.Cyndy@epa.gov>, "Cora, Lori" <Cora.Lori@epa.gov>

Subject: Re: Portland Harbor Superfund Site--Request to Resolve Issues re Jan 4 Letter

Jessica:

Cami and I can be available to talk at 9 AM Tuesday. Please call 206 553-1234 and we will take the call from my office. We would like to work on a way to keep the schedule while making sure you have the opportunity to build your record. At this point our attorneys do not believe the AOC provides for a dispute of the final FS content but we are willing to hear why you believe otherwise.

Dennis McLerran

Regional Administrator

EPA Region 10

Sent from my EPA iPhone

On Jan 16, 2016, at 10:38 AM, Hamilton, Jessica
<Jessica.Hamilton@portofportland.com> wrote:

Dennis and Cami:

The LWG is facing a dispute deadline of Tuesday, January 19, and we intend to file our dispute, unless we can work something out with EPA that protects our ability to recover costs and also allows us to maintain our right to dispute the final FS, which is clearly contemplated and agreed to by the agency under the FS Process Agreement, which ties that right to the AOC, as well as a plain reading of the AOC itself.

The LWG, as we expressed when we first received the letter, believes that there is an acceptable solution out there, for both parties, to achieve EPA's goal of completing the FS and staying on schedule, well short of the approach outlined in your January 4 letter.

We would like to explore again with you whether we can reach agreement without initiating dispute. **We propose we discuss via conference call on Tuesday morning. Tom and I can both be available at 7:30 am, 9 am, or noon for a call.** Please let me know if you would like to try to work this out with us.

In anticipation of being able to come to a conceptual agreement, I will also ask for authority from the LWG to accept a short extension of the deadline to dispute in the event that EPA would like more time to memorialize the terms. Just to be clear, we do not need an extension in order to file our dispute; rather any extension would solely be accepted to allow for the LWG and EPA to be able to finalize an agreement without LWG having to preemptively file a dispute to avoid

waiving any rights.

We remain very hopeful and optimistic that we can work something out that allows EPA to stay on schedule and to complete the FS, but also accommodates the needs of the LWG to protect our legal rights.

We look forward to hearing from you about whether you would like to discuss on Tuesday, and if so, what time will work.

Thank you,

Jessica and Tom

Jessica Hamilton

General Manager, Harbor Environmental

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